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Directorate of Intelligence

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Terrorism Review

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13 October 1983

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GI TR 83-021
13 October 1983

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Terrorism Review [redacted]

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11 Argentina: The Politics of Counterterrorism [redacted] 3.5(c) NR
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Comments and queries regarding this publication may be directed to the Deputy Office of Global Issues, telephone [redacted]

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Argentina: The Politics of Counterterrorism

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The amnesty and antiterrorism laws just issued by Argentina's military government are viewed by many civilian leaders as self-serving and are, in our judgment, likely to be the focus of debate within the civilian congress when it convenes in 1984.

The new amnesty law (officially, the Law for National Pacification) is designed to protect the armed forces from punitive action by the civilian government following the upcoming October elections. It covers the period from the beginning of the last constitutional government in May 1973 to the installation of President Bignone in June 1982. The law specifically exempts from prosecution police and military personnel who participated in the violent campaign against leftists during the 1970s. Moreover, the decree is sweeping: it orders that all ongoing investigations into the hundreds of deaths and more than 6,000 political disappearances be immediately dropped if they involve members of the police or armed forces.

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In contrast, the law is much more exclusive in its treatment of subversives and benefits only those who have not yet been legally charged with antigovernmental activity. In addition, it leaves the door open for future legal action against some of the more notorious terrorist leaders by excluding from its amnesty provisions those subversives living abroad. The decree also exempts from amnesty those suspects who have shown their "intention to continue" their association with guerrilla or terrorist organizations and those already convicted of terrorism.

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Interservice disputes among the armed forces—over who should be covered, the date of issuance, and the period of time that should be covered by the amnesty—delayed the amnesty decree for months. Many officers opposed the amnesty on the grounds that it implicitly acknowledged that the military had committed crimes. Some junior officers also opposed the law because actions taken during the "dirty war" were in response to orders from superior officers, and they had believed this would be a justifiable defense of their actions.

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Promulgation of the amnesty was quickly followed by presidential signature of another law assigning special antiterrorist powers to the military. The government intends the antiterrorist law (officially, the Law for the Judgment of Subversive Acts) to streamline the judicial system and provide a legal apparatus for "preventing and punishing subversion and terrorism." It grants police broad powers to tap telephones, open mail, search houses, and make arrests without a warrant. The law also allows police to detain terrorist suspects incommunicado for up to 48 hours, if a judge is notified of the detention, and for up to 15 days with a judge's permission. Terrorist and subversive acts committed by civilians will no longer be subject to military law, but are to be decided by the Federal Court of Appeals, whose decisions cannot be appealed.

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Public reaction to the amnesty and antiterrorism laws has been swift and harsh: leading civilian politicians, lawyers, and churchmen have denounced the laws as unconstitutional and reactionary and predict their repeal once a civilian congress convenes. Several trial judges have termed the amnesty law invalid, stating that, because the current government seized power in a coup, it does not have the constitutional authority to decree political laws such as the amnesty. Two judges have already refused to forward political disappearance cases to the Federal Appeals Court for possible dismissal as is required by the terms of the amnesty.

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Repeal of the laws—a time-consuming and legally difficult process—seems unlikely, though some attempts at modification by the new congress can probably be expected. According to Embassy reporting, there appears to be a general consensus among political leaders that a strong legal apparatus is needed to deter terrorism. In addition, most politicians recognize that the new civilian government could be destabilized were it to attempt to prosecute military officials. Human rights activists, however, will continue to protest both the abridgment of civil liberties inherent in the antiterrorism law and the denial of military culpability in the amnesty law.

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In the final analysis, the future of the new amnesty/antiterrorism package will largely depend on the outcome of the October national elections. Although leaders of both major political parties have publicly predicted the repeal of the laws, the Radicals have been more strident than the Peronists in their condemnations. One of the first orders of business for the new civilian congress, therefore, is likely to be a debate on how best to modify the new antiterrorism program to finally close the "dirty war" chapter in Argentina's history, while at the same time guaranteeing a modicum of civil liberties. [redacted] 3.5(c)

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